

Docket No.: 61872-8001US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application of:
Nelson et al.

Application No.: 09/656,325

Confirmation No.: 9079

Filed: September 6, 2000

Art Unit: 3641

For: NETWORKED ELECTRONIC ORDNANCE
SYSTEM

Examiner: T. Chambers

**PETITION TO DESIGNATE A GROUND OF REJECTION
SET FORTH IN THE EXAMINER'S ANSWER AS A NEW
GROUND OF REJECTION UNDER 37 C.F.R. § 1.181(a)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam/Sir:

In accordance with 37 C.F.R. § 41.39, Applicants submit this Petition in reply to the Examiner's Answer dated February 9, 2009 in the above-captioned application.

REMARKS

In response to the Examiner's Answer ("the Answer") mailed February 9, 2009 in the above application, Appellants hereby Petition that the grounds of rejection set forth in the Answer be designated as new grounds of rejection.

Appellants' Corrected Appeal Brief ("the Brief") filed October 6, 2008 included Grounds of Rejection to be Reviewed that responded to every objection and rejection set forth by the Examiner in the final Office Action ("the Action") mailed on October 30, 2007. More particularly, these Grounds of Rejection to be Reviewed included: (1) claims 91-100 were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement, (2) claims 101-106 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite, (3) claims 91-92, 94-95, and 97 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boucher¹, Abouav², and "applicant's admission," (4) claim 93 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Boucher, Abouav, "applicant's admission," and Shann³, (5) claim 96 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Boucher, Abouav, "applicant's admission," Shann, and Tyler⁴, (6) claims 98-100 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boucher, Abouav, "applicant's admission," and Tyler, (7) claims 101-103 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boucher, Abouav, and Shann, (8) claims 104-106 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boucher, Abouav, Shann, and Tyler, and (9) claims 91-106 were rejected under 35 U.S.C. § 102(f) based on an alleged failure to include all known inventors in the current list of inventors.

The Answer, however, includes only two new rejections. Specifically, claim 91 is newly rejected under 35 U.S.C. § 103(a) as being unpatentable over the embodiment of Figure 5 of Boucher in view of the embodiment of Figure 1A of Boucher, and claim 101

¹ U.S. Patent No. 6,584,907

² U.S. Patent No. 4,860,653

³ U.S. Patent No. 5,894,103

⁴ U.S. Patent No. 4,674,047

is newly rejected under 35 U.S.C. § 103(a) as being unpatentable over the embodiments of Figures 5 and 1A of Boucher in view of Shann.

The Answer fails to designate the new grounds of rejection as such. Moreover, the Examiner states in the Answer that "appellants' statement of the grounds of rejection to be reviewed on appeal is correct," but does not address any of the Grounds of Rejection to be Reviewed that are included in the Brief.

Appellants respectfully request that the two rejections included in the Answer be designated as new grounds of rejection.

No fees are believed due with this communication. However, the Commissioner is hereby authorized and requested to charge any deficiency in fees herein to Deposit Account No. 50-0665, under Order No. 618728001US from which the undersigned is authorized to draw.

Dated: April 9, 2009

Respectfully submitted,

PERKINS COIE LLP
607 Fourteenth Street, N.W.
Washington, DC 20005-2011

By: /Michael A. Oblon/
Michael A. Oblon
Registration No.: 42,956
Attorney for Appellants